



Appeal Decision

Hearing Held on 21 January 2025

Site visit made on 21 January 2025

by Philip Major BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 31 January 2025

Appeal Ref: APP/Y9507/W/24/3349581

Land south of Green Street, East Worldham GU35 9NN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Edward Connors against the decision of South Downs National Park Authority.
 - The application Ref: SDNP/23/04775/FUL, dated 13 November 2023, was refused by notice dated 12 July 2024.
 - The development proposed is the material change of use of land to a mixed use for the keeping of horses and as a residential caravan site, including the stationing or 3 caravans (no more than one static caravan) retention of existing hardstanding and vehicular access, and erection of an ancillary amenity building.
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Preliminary Matters

1. I have been made aware that there is an outstanding enforcement notice in relation to this site, which is currently at appeal. That is not a matter before me and the enforcement appeal will progress separately. I must make my decision on the basis of the appeal made under S78 of the 1990 Act. The development applied for has been largely completed.
2. I have received comments during the course of the appeal regarding the treatment of the western boundary of the appeal site. It is alleged that the Appellant has replaced fencing, removed trees and opened an access onto a side lane across common land. Those are not matters which form part of this appeal. Whether or not the works carried out to the west (which I saw at my site visit) are lawful or acceptable is not for me to determine. Any future action on those matters would need to be initiated by the relevant authorities or landowners.

Decision

3. The appeal is allowed and planning permission is granted for a time limited period for the material change of use of land to a mixed use for the keeping of horses and as a residential caravan site, including the stationing or 3 caravans (no more than one static caravan) retention of existing hardstanding and vehicular access, and erection of an ancillary amenity building at land south of Green Street, East Worldham GU35 9NN in accordance with the terms of the application, Ref: SDNP/23/04775/FUL, dated 13 November 2023, and the plans submitted with it, subject to the conditions set out in the attached Annex.

Main Issues

4. The main issues in the appeal are:
 - (a) The need for sites generally and the needs of the Appellant and his family for accommodation;
 - (b) The effect of the proposal on the character and appearance of the locality, bearing in mind its location within the South Downs National Park (SDNP);
 - (c) The effect of the installation of the access on highway safety;
 - (d) The impact of the proposal on the living conditions of neighbours.

Reasons

Need

5. Since the appeal was submitted a new Gypsy and Traveller Accommodation Assessment (GTAA) has been undertaken. This shows that there is a need for at least 14 pitches for Gypsies and Travellers in the National Park (NP) within East Hampshire. As was fairly pointed out by the Appellant's agent, this is likely to be an underestimate in light of the revised definition of Gypsies and Travellers in the December 2024 edition of Planning Policy for Traveller Sites (PPTS). There is no dispute that the Authority cannot at present meet this need and cannot demonstrate a 5 year supply of deliverable sites as required by the National Planning Policy Framework (NPPF). This in itself is a significant material consideration in support of the appeal. However, paragraph 11d) of the NPPF is not engaged as the site lies within the SDNP.
6. Apart from this general need it is not contested that the Appellant, and his family, have a need for suitable accommodation. It is clear from the information before me that there is a lack of alternatives, and that should they be required to move from this location it may result in itinerant roadside camping.
7. There are school age children living on the site and it is important to recognise that their needs are a primary factor in this case. No other matter is inherently more important. However this is not a matter which is necessarily determinative if other considerations of equal and other weight cumulatively carry greater force.
8. The Social Welfare Report submitted in support of the application is informative in that it explains the current situation of the family. The report indicates that having left their previous lives in Ireland for safety reasons there is no other location available to them in which to provide a settled base for Mr and Mrs Connors and their children. The children attend local schools and/or nursery facilities. I fully understand that a settled base from which to access education for the children is of great importance. I note also that the family is registered with a local healthcare practice.
9. Taking these matters together it is clear to me that there is both a general need for Gypsy pitches in the SDNP and a personal need for the Appellant and his family. These are matters of significant and substantial weight respectively. I was told at the hearing that the next iteration of the Local Plan is seeking to allocate at least one site for multiple Gypsy and Traveller occupation, but it is evident that this would be likely to be some time in the future.

Character and Appearance

10. The South Downs Landscape Character Assessment identifies key characteristics for this area. The appeal site is situated in an area where some of these characteristics are notable. In particular I identified the gently undulating landform, with isolated farmsteads and irregular fields. Larger settlements and villages are dispersed throughout the locality. Of particular note in the vicinity of the appeal site is the presence of thick hedgerows and narrow strips of woodland. These flank the B3004 for much of the distance between East Worldham and Kingsley and give a sense of enclosure to this transport corridor.
11. The removal of vegetation and installation of close boarded fencing along the appeal site frontage to the B3004 is in marked contrast to the established vegetated margins of the road and introduces a jarring contrast to the character of the locality. The fact that the site is clearly perceived as being hard surfaced contrasts unfavourably with the glimpses of rural land which are otherwise seen nearby. In my judgement the development is seriously harmful to the character of the area.
12. In visual terms the site is largely observed only when passing along the B3004, with lesser views along the lane to the west. Most visual receptors here are therefore likely to be in vehicles and suffer only short glimpses of the site. Even so the visual impact of the development is stark, especially the presence of close boarded fencing and presence of angular caravan forms. Introduction of the proposed utility building would further increase visual intrusion. I consider this intrusion to be significant.
13. I am of course aware that the Appellant would seek to implement a landscaping scheme in order to mitigate any harm to character and appearance. It is also pertinent to record that sites are not intended to be invisible, but to blend with their surroundings. In this case I consider that any landscaping would need to be extensive in order to blend with the character of the area, and that such landscaping would be likely to take several years to become established. In the meantime the harm that I have identified would persist. I also have doubts as to whether landscaping would effectively integrate the development with the established roadside character given the wide access and the visibility splays contemplated (which I deal with later).
14. The primary purposes of the SDLP are twofold. The first is to conserve and enhance the natural beauty, wildlife and cultural heritage of the national park. The second is to promote opportunities for the public understanding and enjoyment of the special qualities of the area. If there is a conflict between these purposes conservation takes precedence. It is also fair to point out that in pursuit of these purpose there is a duty to foster the economic and social well-being of the local community.
15. It is my judgement that the development currently, and in its intended final form including the amenity building, would not conserve the natural beauty, wildlife and cultural heritage of the SDLP. The proposal would also fail to promote the enjoyment of the SDLP. With due regard to the duty to foster economic and social well-being of the local community I do not find that this proposal would do so. Whilst it might be argued that the first purpose of the national park includes the culture of Gypsy and Traveller life in the area, if this conflicts with the requirement to conserve the natural beauty of the national park it seems to me that a judgement is required. Here, it is my judgement

that promoting the Gypsy and Traveller way of life does not outweigh harm to the landscape.

16. I have therefore reached the conclusion that the development, both as it stands, and with the addition of the proposed utility building, is and would continue to be seriously detrimental to the character and appearance of the area. Even with landscaping where possible in the future it therefore conflicts with Policy SD4 of the South Downs Local Plan (adopted 2019) which taken in the round seeks to ensure that development is only permitted where it conserves and enhances landscape character. There is also conflict with Local Plan Policy SD5, which amongst other things requires development to integrate with and complement landscape character.

Highway Safety

17. The access to the site as constructed leads directly onto the B3004. This road is subject to the national speed limit (currently 60mph). At my pre-hearing and post-hearing site visits I took careful note of the character and observed speed of traffic. There are no speed measurements available, and it was agreed at the hearing that a judgement is required in relation to the provision of access points onto major roads.
18. The County Council has its own standards (set out in TG3) which in this location would require visibility splays of 2.4m x 215m in both directions. It was agreed at the hearing that the 215m measurement does not represent a sight stopping distance for traffic on the major road, but is designed to enable traffic to flow smoothly. In contrast the Appellant argues that a more realistic visibility splay should be based on the advice of Manual for Streets (MfS) which has been calculated at 2.4m by 158m.
19. There is therefore disagreement about which visibility splay would be appropriate. However, as I have noted above, there is agreement that a judgement has to be made in the light of available guidance.
20. The B3004 appears to me to be well used. At all the times I observed it there was traffic flowing, but noticeably more in the morning and evening peaks, as would be expected. It seemed to me that a significant proportion of the flows is traffic which might be described as greater than the size of the average domestic vehicle. Speed of vehicles varied but appeared to me to be quite high given that the road is not particularly wide.
21. With this in mind I observed the access which has been created at first hand. Although there is no accurate measurement available I have doubts as to the current set back of the fence at the access. Particularly when exiting, the set back to the right seems to be less than 2.4m. Certainly it is necessary to slowly edge a vehicle onto the carriageway to enable a view of oncoming traffic in the nearside lane. Visibility to the left is better.
22. The appellant's evidence is that visibility splays of 2.4m x 158m or more would be possible and could be kept clear of obstructions as would be required. That may be so, but on the other hand, taking into account my observation of traffic flows and the nature of that traffic (I have no technical information or measurements to assist) it is my judgement that the visibility recommended by the County Council would be more appropriate on this relatively fast and narrow stretch of road which also has no overtaking restrictions.
23. A plan has been supplied which indicated that visibility splays of 2.4m x 175m and 182m to east and west respectively could be achieved. Those fall short of

the County Council's recommendation, which I prefer, but are closer to the County Council's preference than the calculated figures. I must also bear in mind that by its nature the development proposed is likely to result in vehicles towing caravans entering the major road at slow speed. Without adequate visibility this would be hazardous. Overall, therefore, I am not satisfied that the access which exists now would be sufficiently safe for a permanent development. The opportunity to improve the access by implementing the maximum visibility available would offer a better solution, if not a solution favoured by the County Council.

24. Even were I to accept the lesser distances suggested by the Appellant it is clear that the areas in front of the visibility splay would be required to be kept free of vegetation or obstructions above about 600mm. This would in itself add to the loss of roadside character which is prevalent in this location, and I note that on the application plans submitted any planting is proposed to be located behind fencing and within the site. The roadside boundary would therefore remain a stark and urban type of feature.
25. In my judgement, therefore, it has not been shown that the access to the site has been provided in a manner which is commensurate with long term highway safety. A better and somewhat safer access could be achieved, albeit still below the preferred standard. This is in conflict with Local Plan Policies SD19 and SD21 which, taken together, seek to ensure that the local highway network remains safe to use.
26. That said I also bear in mind that a roadside existence would be likely to entail its own hazards, both for the Appellant and his family, and for other highway users. This limits, to a degree, the weight which I attach to the development plan conflict on this issue.

Living Conditions

27. The closest neighbour to the site is on the opposite side of the B3004, at Christmas Cottage. I visited that location during my accompanied site visit. Traffic noise from the road was audible in the front garden, and to a lesser extent in the rear garden.
28. The primary concern here is twofold. First that the generator used on the appeal site causes disturbance during quiet periods when traffic diminishes. And secondly that lighting on the appeal site removes dark skies. Both of these matters relate to the loss of tranquillity.
29. The Appellant has an offer of connection to mains electricity which has been accepted. Understandably he would not wish to carry out that expensive installation unless planning permission were to be granted. Although I heard the current generator at the site for a short period it did not enable me to make any realistic judgement on whether it would be disturbing at Christmas Cottage. However I did note that the generator was significantly noisy and had been enclosed in a box to try to reduce noise emissions.
30. Taken in the round these concerns seem to me to be resolvable in the event planning permission were to be granted. Any noise disturbance from a generator would be eliminated by a requirement to introduce noise mitigation measures, or by the installation of a mains supply (although this could take up to 6 months). Noise mitigation could be required by condition, as could the requirement to limit external lighting and its use.

31. All considered it is my view that the concerns relating to the living conditions of neighbours are capable of resolution and should not weigh against the grant of planning permission.

Other Matters

32. Drainage matters have been raised as a concern, as has water supply. The site is already connected to mains water. I have no information which suggests that the installation of both foul and surface water systems are not capable of technical resolution such that the site would operate acceptably in the long term. These matters can be controlled by condition and therefore do not weigh against the proposal. The site already has rudimentary foul drainage.

Human Rights and the Public Sector Equality Duty

33. Representations indicate that the Appellant would have no alternative accommodation should this appeal fail. He and his family may have to resort to a roadside existence, with the difficulties that would entail. Article 8 of the European Convention on Human Rights is clearly engaged and dismissal of the appeal would be likely to lead to the loss of the Appellant's home. Refusal of the proposal would interfere with the Article 8 rights of the site occupants, including children.
34. Dismissal of the appeal would have an impact on the best interests of the Appellant's children who currently attend, or will in due course attend, local schools. It is established law that in cases such as this no other consideration should attract greater weight than the best interests of the child. As I note above that is not to say that where children are present planning permission will always be granted, but it is a material consideration of substantial weight.
35. I have also had regard to the Public Sector Equality Duty (PSED). The Appellant and prospective occupants share protected characteristics, and I have taken into account the need to avoid discrimination, advance equality of opportunity and foster good relations.

The Planning Balance

36. There are 2 principal matters which weigh in favour of the proposal:
- The established need for accommodation for the family, including children. This attracts substantial weight.
 - The general need for sites in the SDLP, which is of significant weight.
37. On the other hand the development causes harm as I set out above:
- There is harm to the character and appearance of the locality and the SDLP, and this carries significant weight. There is conflict with the development plan in this regard.
 - There is a detrimental impact on highway safety. This results in conflict with the development plan as set out above. However, a roadside existence would bring its own risks.
38. Taking these matters overall it is my judgement that the weight attached to the need for a site, including the best interests of the children, is not in this case sufficient to justify a permanent planning permission. I do not accept that this site is suitable for occupation in perpetuity for the reasons I have set out. There is, as noted, manifest conflict with the development plan.

39. I have given consideration to whether a time limited permission would be appropriate in this case. It is my view that this would be acceptable for a limited period so that alternatives can be brought forward through the local plan process. Interference with the human rights of the Appellant and his family in this case would be disproportionate were the appeal to be dismissed outright.

Conditions

40. A list of suggested conditions has been prepared. In light of my conclusion that a time limited planning permission is appropriate here these can be simplified.
41. The application is based on the needs of the Appellant's family. Therefore it is reasonable and necessary to limit the permission to him and his dependants as well as being for a limited period. I consider that 3 years would be sufficient to enable future site supply to become clear. The time limiting condition should also require reinstatement of the land to ensure that the character and appearance of the locality is returned to its former state.
42. Conditions are required to restrict the number of caravans on site, and for restriction on business use, in the interests of the appearance of the locality. Should the Appellant choose to construct the dayroom (it is by no means certain that it would be constructed given the likelihood that reinstatement of the land after 3 years would require its removal) then its use should be restricted to ancillary accommodation.
43. Conditions requiring any external lighting to be installed or retained, and for the provision of electricity such that no nuisance is caused to neighbours are reasonable and necessary.
44. In order to maximise highway safety it is necessary to include a condition requiring the access to be constructed to the specification shown on the plan submitted by the Appellant, and for access gates to be set back.
45. I do not consider it reasonable to impose conditions requiring details of foul drainage. Information before me is that a basic system is in place. I also have insufficient justification on potential flood risk to impose a surface water drainage condition. A condition requiring a landscaping scheme would be unreasonable in view of the time limited nature of the permission. In any event it would be expected that reinstatement of the land would include restoration of roadside vegetation.

Conclusion

46. For the reasons given above I conclude that the appeal should be allowed for a time limited period, and subject to reasonable and necessary conditions.

Philip Major

INSPECTOR

ANNEX

Schedule of Conditions

1. The site shall not be occupied by any persons other than gypsies or travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites, December 2024, or its equivalent in replacement national policy.
2. The development hereby permitted shall be carried out in accordance with the following approved plans and particulars:

ITB 18637-GA-001 Site Access Visibility Splays prepared by i-Transport;
Site Layout Plan;
Amenity Building, Floor Plan and Elevations.
3. When the site ceases to be occupied by Mr Edward Connors and his resident dependants, or at the end of 3 years from the date of this decision, whichever shall first occur, the use hereby permitted shall cease and all caravans, buildings, structures, materials and equipment brought on to the land, or works undertaken to it in connection with the use, shall be removed and the land restored to its condition before the development took place.
4. Any access gates installed associated with the revised access pursuant to condition 2 above shall be set back a minimum of 12 metres from the highway edge and open inwards only.
5. No more than 3 caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravans Sites Act 1968 (or any subsequent legislation that defines caravans), shall be stationed on the site at any time, (of which no more than one shall be a static caravan or mobile home) and the site shall be used for only one pitch in total on the overall area of land.
6. The utility/dayroom hereby permitted, if constructed, shall be restricted to use as ancillary accommodation to the caravan site from which it shall not be let, sold separately, or severed thereafter.
7. No commercial, industrial or business activities, including the storage of materials and goods, shall take place on any part of the site.
8. The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 30 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 3 months of the date of this decision schemes for:
 - proposed external lighting on the boundary of and within the site, together with details of how lighting will be controlled during darkness;
 - the provision of electricity and details of noise suppression of any generators proposed showing that noise sensitive receptors to the north and east will be adequately protected;

- the restoration of the site to its condition before the development took place, at the end of the period for which planning permission is granted for the use.

shall have been submitted for the written approval of the local planning authority and the schemes shall include a timetable for their implementation.

- ii) If within 6 months of the date of this decision the local planning authority refuse to approve the schemes or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
- iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted schemes shall have been approved by the Secretary of State.
- iv) The approved schemes shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved schemes specified in this condition, that scheme shall thereafter retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

APPEARANCES

FOR THE APPELLANT:

Mr P Brown BA(Hons) URP
Ms T Choudhry
Mr E Connors

Philip Brown Associates
Brilliance Solicitors
Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mrs S Owen MRTPI
Mr K Dudley

Principal Planning Officer
Transport Planner, Hampshire County Council
Highways

INTERESTED PERSONS:

Mrs C Fletcher
Mr M Kemp-Gee
Mr L Galloway

Local resident
Local Councillor
E Hants District Council